

REMARKS

The status of the claims is as follows: Claims 1,3,4, 8-11, 14-16, 18-25, 27-29, 32-35, 37-39, and new independent claim 40 are pending. Claims 2, 5, 6, 7,12, 13, 17, 26, 30, 31, and 36 are canceled. Claims 1, 3, 4, 10, 11, 14, 25, 27, 28, 32, 33, and 38 are currently amended. Support for the amendments, and in particular the term “opening” can be found in the Specification in Figs 3, 6, and 7 and on page 12, line 19; the term “apex” can be found on page 10, line 16, and in Figs. 3 and 2; the terms “raised area” and “recessed region” on page 11, lines 9-10; the term “multiple plies” on page 11, line 24; a list of “flexible polymers” is found on page 6, lines 25-28; a “quilt pattern” is found in Figs. 6 and 7, and on page 10, line 25; and the term “continuous” ovalled inner edge is apparent and illustrated in Figs 3, 6, 7, and 11.

Claims 1, 8-9, 11, 15-16, 19, 21-23, 25, 27, 32-35 and 38 stand rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht et al. (4875242). The Examiner asserts that relates to a disposable sanitary seat cover (10) comprising an annulus (12) having a polygonal perimeter and an ovalled inner edge (18) and a protective flap (54) attached to the inner edge of the annulus as shown in Figure 2. The seat cover is of a multi-ply embossed laminated paper sheet having a top layer (24) of tissue paper and a bottom layer (26) of a machine glazed paper, and an adhesive fastening means (57) for temporarily securing the cover to the toilet, wherein the adhesive means is attached to the bottom layer. The annulus has a polygonal perimeter, such as a rectangle (Figure 2). Figure 2 shows by the cross-hatch lines that the embossing pattern is rectangularly checkered. The adhesive fastening means (57) comprises a pressure-sensitive adhesive (PSA) covered with a release liner (62). The adhesive tape (58) is a double-sided adhesive tape with a carrier sandwiched between the two adhesive layers because the two adhesive sides have different adhesive strengths (col. 5, lines 6-12). Further, Figure 2 also shows that the adhesive fastening means are two or more islets or strips (58 and 60). The absorbent layer is embossed, which is understood to include printing, and can comprise a two-ply layer (col. 3, lines 62-64, and Figure 6). For claim 22, the length is approximately that of the toilet seat and the width is slightly wider (abstract). Figures 3-5 display that the cover

sheet is folded to fit into a bag and a finger lift to facilitate removal of a single cover from the bag. The embossing is understood and interpreted by the Examiner to include quilting. The glazed paper is understood to be moisture impervious because the glazing process provides for a filmy surface to the paper to render it impervious to water.

Applicants have currently amended independent claims 1 and 25, and added new independent claim 40.

With regard to claim 1, as the Examiner points out, Albrecht et al. teach a protective flap. Applicants have no protective flap. Applicants' opening has a continuous ovalled inner edge with an apex. While part of Albrecht et al.'s opening may have an inner ovalled edge, it is not continuous and does not have an apex. The presence of the protective flap clearly departs from the form of Applicants' claimed invention. Albrecht et al.'s protective flap teaches away from a sanitary toilet seat cover, because the protective flap falls into the toilet. Applicants claim a water impervious layer that is water resistant flexible polymer. While Albrecht et al.'s glazed paper may be moisture impervious as the result of mechanical processing, it has very different properties than a water resistant flexible polymer, such as polyethylene. Claim 1 (currently amended) has a quilt pattern that provides thermal insulation, cushioning, and conformability to the toilet seat cover. Glazed paper is very stiff, and, while it may provide a degree of moisture resistance, it will not be conformable; it will be easily creased, and is potentially no longer moisture resistant because of embossing. The depth of embossing will be limited by the flexibility of the glazed paper. Applicants' claimed invention differs from et al. as follows. Albrecht et al. teach a partial annulus (12) having a polygonal perimeter, where the partial annulus has a flap 54 that folds down into the toilet, presumably for purposes of creating a sanitary surface for an adult male. Applicants' invention, which is intended to be used by children, has no protective flap. Further, such a protective flap would be undesirable, as the flap is contaminated from contact with the toilet bowl and from excretions by the user. The protective flap makes a toilet seat cover difficult to dispose of the toilet seat cover is not flushable, as the protective flap, now soaked in urine and feces, would drip when removing from the seat. Furthermore, the

protective flap would serve no purpose for a child. Albrecht et al. teach a multi-ply embossed laminated paper sheet having a top layer (24) of crepe tissue paper and a bottom layer (26) of a machine glazed paper. In the Abstract, Albrecht et al. teach that the "Disclosed is a toilet seat cover in the form of a composite paper sheet which disintegrates when immersed in water". Applicants are in accord with the Examiner that certain machine-glazed paper can be made impervious to water. However, as seen from the Abstract, this is obviously not the type of machine-glazed paper that Albrecht et al. is using. Therefore, the claimed water impervious layer with a coating layer or a filmic layer of a water resistant flexible polymer, as is claimed in currently amended claim 1, is not comparable to Albrecht et al.'s machine glazed paper. Claim 1 is amended to explicitly claim the quilt pattern that has raised areas and recessed regions, where raised areas and recessed regions provide thermal insulation, cushioning, and conformability. The 102 rejection is overcome, as Albrecht et al. teach a protective flap, while Applicants claim a center opening with a continuous ovalled inner edge with an apex. Albrecht et al. teach a glazed paper, while Applicants claim a water resistant flexible polymer. Albrecht et al. teach in the Abstract "a top layer of dry creped paper, embossed laminated with a bottom layer of flat machine finished or machine glazed finished paper". Applicants claim a quilt pattern with raised areas and intervening recessed regions. While creped paper has ridges where the paper is gathered, the ridges are not interrupted with intervening recessed regions in a quilt pattern. The rejection is respectfully overcome.

With regard to claim 22, the Examiner states that Albrecht et al. teach that the length is approximately that of the toilet seat and the width is slightly wider (abstract).

The Examiner is in error. Albrecht et al. teach that the sheet is oversize relative to the toilet seat and has substantial overhanging skirt and other defined portions, which may be torn off for emergency use as a wiping material. Applicant does not claim skirt material that can be torn off. The rejection is respectfully overcome.

As for claims 8-9, 11, 15-16, 19, 21, 23, 25, 27, 32-35, and 38, the Examiner cites no reasons for rejecting the claims.

Applicants cite 2131 Anticipation - Application of 35 U.S.C. 102(a), (b), and (e)
[R-1]

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

As the Examiner has not provided a basis for the rejection, claims 8-9, 11, 15-16, 19, 21, 23, 25, 27, 32-35, and 38 should be allowed.

Claims 10 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. in view of Thygesen. Examiner admits that Albrecht et al. fail to teach that the flap is detachably attached to the annulus. Thygesen discloses an annulus with a detachable inner oval section.

Applicants' claim 10 (currently amended) claims an "inner oval section [that] is perforatedly attached to the annulus". Thygesen discloses an annulus with a "central field is constructed with an additional weakening line which divides the central field into two field portions, one of which can depend into the toilet bowl". Thygesen is similar to Albrecht et al., in that both teach a flap that falls into the toilet bowl. Thygesen invention is "capable of being flushed". As previously discussed, the flap is unsanitary for all disposable toilet seat covers, except those that are flushable. As Applicants claim a water resistant flexible polymer, Applicants' cover is not flushable, and the flap constitutes an element that would make Applicants' invention unworkable. Furthermore, claim 10 depends claim 1, which is not anticipated by Albrecht et al. The rejection is overcome.

Applicants' claim 14 (currently amended) depends from claim 10, and claims an inner oval section [that] has a "quilt pattern". Thygesen nor Albrecht et al. teach a quilt pattern. Claim 14 is further allowable by the nature of its dependency on claims 10 and 1.

Claims 3-4, 18, 28-29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. in view of MacLean. Examiner admits Albrecht et al. fail to teach polyethylene and fragrance. MacLean teaches PE and the background of Canadian Patent No. 315,162 teaches suppressing unpleasant smell.

Applicants' invention has an absorbent layer and a water impervious layer, as well as a quilt pattern and adhesive means. Albrecht et al. has embossed laminated crepe and machine glazed paper, and MacLean has a porous paper with a layer of wax or polyethylene. Examiner states it would be obvious to utilize polyethylene in the invention of Albrecht et al. This would render Albrecht et al.'s invention no longer water dispersible, making it creped paper with a polyethylene coating. Applicants are not claiming crepe paper with a polyethylene coating having a protective flap. Rejection to claims 3, 4, and 28 is overcome.

The Canadian reference provides an improvement in seat protectors. The improvement includes a plurality of odorous sanitized packets each being extendible into a ring of flimsy paper folded in leaves from a common fold closing one side of a converging packet made for vending purposes. Applicants invention incorporates the fragrance in the seat cover not, as a sanitized packets extendible into a ring of flimsy paper. Rejection to claims 18 and 37 is overcome.

Claim 29 depends on claim 28, which depends on 27, which depends on claim 25. Claim 25 was not addressed in the 102 rejection. The rejection to claim 29 is overcome.

Claims 20 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. in view of MacLean and Tanaka (6663949). The Examiner asserts that Albrecht et al. and MacLean, as discussed above, fail to teach that the absorbent layer contains water swellable polymeric particles. Tanaka discloses an absorbent sheet comprising water swellable polymeric particle embedded therein (abstract and col. 3, lines 5 and 14). They also contain a deodorizer. The sheet can be used as toilet sheet. Therefore, it would have been obvious to one having ordinary skill in the art to utilize

Tanaka's teaching of using water swellable polymeric particles in the absorbent layer of the toilet seat liner in the invention of Albrecht et al. with the motivation to provide for dry seat for hygienic purpose.

Applicants' claim 20 is a dependent claim depending on independent claim 1, and claim 39 is dependent claim depending on independent claim 25. The limitations discussed for claims 1 and 25 in the previous rejection apply to claims 20 and 39, respectively. Applicants further argue that Tanaka's polymer swells and gets tacky (in col. 3, line 5), and this would be highly undesirable, as the toilet seat cover would then be adhered to the user. Applicants are not under an obligation to address every patent where the art is inappropriate. Obviously, this art is not an appropriate citation. Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case. *The Supreme Court in Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966). Under Section 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Office policy has consistently been to follow *Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. 103. The four factual inquiries for determining obviousness is briefly as follows: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. The Examiner has not met criteria B or D, as the cited polymer becomes tacky, as well as swells. The rejection is respectfully overcome by virtue of the dependency and the arguments. Furthermore, the Examiner did not address claim 25, which is the parent claim of claim 39. Claim 20 depends on claim 19, which depends on claim 9, which reads on a carrier. Claim 9 was not addressed in the 102 rejection. Claim 9 depends on claim 1. In view of the lack of foundation, *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), and the dependency claims 20 and 39 are believed to be allowable.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. in view of Knisely (1835787). As discussed above, Albrecht et al. fail to teach that the absorbent layer contains an antiseptic. Knisely discloses a sanitary closet seat cover (3) made of crepe tissue paper, which is absorbent and is treated with antiseptic (page 1, lines 72-79). Therefore, it would have been obvious to one having ordinary skill in the art to utilize Knisely's teaching of using tissue absorbent paper with antiseptic treatment in the invention of Albrecht et al. with the motivation to provide protection from germs.

Applicants have previously enumerated the problems with a flap, as taught by Albrecht et al., Thygesen, and now Knisely. Furthermore, the named antiseptics "formaldehyde and carbolic acid" are known carcinogens and skin irritants. In addition to creating an unsanitary toilet seat, the user would at best have a rash, or irritated genitals. The germs may be dead, but at a very high cost. With formaldehyde and carbolic acid, one would not need a fragrance. Applicants' claim 24 is a dependent claim, depending on independent claim 1. The rejection is respectfully overcome by virtue of the dependency and the arguments.

New claim 40 has been added, but does not exceed the number of claims already paid for. Claim 40 is the third independent claim.

CONCLUSION

Applicants would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Agent at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Agent at Examiner's earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Rhett Brockington', written in a cursive style.

F. Rhett Brockington
Patent Agent for Applicant(s)
Registration No. 29,618
DOUGHERTY | CLEMENTS
1901 Roxborough Road, Suite 300
Charlotte, North Carolina 28211
Telephone: 704/366-6642
Facsimile: 704/366-9744

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